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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

W.T.R. No. 9 of 1999
Date of decision: November ,2006

Commissioner of Wealth-tax, Patiala

v.

Mrs. Manjit Kaur

Present: Dr. N.L.Sharda, Advocate for the applicant.
None for the respondent.

CORAM:
Hon'ble Mr.Justice Adarsh Kumar Goel
Hon'ble Mr.Justice Rajesh Bindal

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

ORDER:

Following question of law has been referred for opinion of this Court by the Income-tax Appellate Tribunal, Chandigarh Bench (for short, `the Tribunal'), arising out of its order dated 25.3.1998, in W.T.A. Nos. 21 and 22/CHANDI/92, in respect of assessment years 1988-89 and 1989-90:

> "Whether, on the facts and in the circumstances of the case, the ITAT was right in law in holding that the amount of compensation received by the assessee is not liable to wealth-tax when the amount was held by the assessee on the valuation date ?"

Briefly, the facts, as taken from the assessment year 1988-89, are that the assessee filed her return declaring net wealth at Rs. 3,08,600/- on 30.3.1990. During the course of assessment, it was noticed that the assessee received additional compensation amounting to Rs. 7,73,834.53 on

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13.4.1987. While computing the net wealth, the assessee deducted Rs. 8,16,684/-, i.e., Rs. 7,73,834/- received as compensation plus Rs. 42850/- interest thereon from the total wealth with the narration "amount of land compensation and interest thereon for which suit is pending in the court for final settlement (as per decision of Supreme Court in the case of C.I.T. v. Hindustan Housing and Land Development Trust Ltd., (1986) 161 ITR 524 (SC). However, the Assessing Officer did not agree with the plea of the assessee for the reason that the additional amount of compensation had been received by the assessee during the financial year in question. Accordingly, the same was liable to tax under the Wealth-tax Act, 1957 (for short, `the Act').

In appeal before the Commissioner of Wealth-tax (Appeals), [for short, `the CWT (A)'], the plea of the assessee was accepted and accordingly, the CWT (A) ordered deletion of the addition from the net wealth as made by the Assessing Officer. Aggrieved against the order passed by the CWT(A), the Revenue went in appeal before the Tribunal, which was rejected by the Tribunal with the following observations:

> "We have carefully considered the submissions made by D.R. and have also perused the orders of the lower authorities. It is not disputed before us that the amount of Rs. 7,73,834/- was kept on furnishing of surety bonds in order to ensure that the money is returned in the eventuality of the assessee's losing the case. Further, the amount of Rs. 2,48,303/- was already demanded by LAO. It is observed that CIT(A) has deleted the additions by relying on ratio of the decisions in 161 I.T.R. 524 (supra). We feel that the facts in this case are similar to the one in the aforesaid case, wherein the entire amount awarded was

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in dispute in appeal filed by the State Govt. In the said case also, the assessee was not permitted to withdraw the amount without furnishing surety bond for refunding the amount in the event of appeal being allowed. Hon'ble Apex court had held that there was no absolute right to receive the amount at that stage. It was also observed that there was clear distinction between the cases where right to receive payment was in dispute and the right to receive payment was admitted and only the quantification of the amount payable was left to be determined in accordance with the settled or accepted principles. Thus, we feel that CWT(A) has rightly deleted the impugned additions and no interference is required at our hands in his action."

We have heard learned counsel for the Revenue and perused findings recorded.

The C.W.T.(A) and the Tribunal have held the amount of compensation received by the assessee is not includable in the value of assets held by the assessee on the valuation date only on the ground that the said amount of compensation for acquisition of land which, though received by the assessee as additional compensation is in dispute in the appeal filed by the State Government and the amount had been released against security. We are of the view that this is not a correct interpretation of law. Wealth Tax is chargeable under Section 3 of the Wealth Tax Act on the net wealth which is defined under Section 2(m) of the Act as aggregate value of the assets on the valuation date.

We find that similar question has been gone into by the Hon'ble Supreme Court of India, inter-alia, in **Pandit Lakshmi Kant Jha Vs. Commissioner of Wealth-Tax, Bihar and Orrissa,** (1973) 90 ITR 97,

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Mrs.Khorshed Shapoor Chenai Vs. Assistant Controller of Estate Duty, (1980) 122 ITR 21, Commissioner of Wealth Tax Vs.Smt.Anjali Khan, (1991) 187 ITR 345 and Commissioner of Wealth-Tax Vs.U.C.Mehatab,(1998) 231 ITR 501 and was held that the amount of compensation is receivable on the date acquired property vests in the Government and not on the date when it may be finally determined. Even though appropriate deduction in the value may be made on account of litigation hazard.

In Mrs. Khorshed Shapoor Chenai's case (supra), it was observed:-

> "In the case of the right to receive compensation, which is property, the estimated value can never be below the figure quantified by the Collector because under S.25(1) of the Land Acquisition Act the Civil Court cannot award any amount below that awarded by the Collector; the estimated value can be equal to the Collector's award or more but can never be equal to the tall claim made by the claimant in the reference nor equal to the claim actually awarded by the Civil Court inasmuch as the risk or hazard of litigation would be a detracting factor while arriving at a reasonable and proper value of this property as on the date of the deceased's death. The assessing authority will have to estimate the value having regard to the peculiar nature of the property, its marketability and the surrounding circumstances including the risk or hazard of litigation looming large at the relevant date."

In Smt.Anjali Khan's case (Supra), it was held as under:-

> "....As we have mentioned earlier, the Wealth-tax Officer has included in the net wealth the entire amount of the compensation that would eventually become payable to the assessee without making any allowance, as was done in **Pandit**

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> **Lakshmi Kant Jha's** case (1973) 90 ITR 97 (SC), for the circumstances that the compensation was payable at a future date. It is clear that, where the compensation, as here is to be determined and is payable at a date much later than the valuation date, the value of the assessee's right to receive the compensation can only be the "present" value (i.e. the value as on the valuation date of the amount) that may be determined and paid as compensation in future. It cannot be equal to the amount of compensation payable under the Act. The present value of the future compensation will, therefore, have to be determined on a consideration of all relevant aspects that may be put forward before the Tribunal."

The same view has been taken by this Court in **Commissioner of Wealth-Tax Vs. S.Baldev Inder Singh, (1993) 203 ITR 837.**

In **K.U.Srinivasa Rao Vs.Commissioner of Wealth-Tax, Andhra Pradesh, (1985) 152 ITR 128 (AP), M.Ramanamma Vs.Commissioner of Wealth Tax, (1986) 157 ITR, 555 (AP) and Commissioner of Wealth-Tax Vs.Mrs.Lucy Kochuvareed, (1995) 211 ITR, 792(Kerala)** it was held that appropriate deduction for determining value on the valuation date has to be made on the amount of compensation which may be determined as payable.

Following the principle laid down in the above judgments, we are of the view that the amount of compensation received by the assessee was liable to Wealth tax on the valuation date. Accordingly, the question referred is answered in favour of the Revenue and against the assessee. However, as we find that the exercise for determination of cut from the amount received by the assessee as compensation on account of litigation

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hazard has not been gone into by the Tribunal, the matter is remitted back to the Tribunal to deal with this aspect of the matter keeping in view the principles of law referred to above and pass a fresh order after affording hearing to the assessee.

The Reference is disposed of in the manner indicated above.

(Adarsh Kumar Goel)
Judge

November14 , 2006 **(Rajesh Bindal)**
Pka **Judge**